

D-5

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 26, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05MD-086

MAUI

Grant of Perpetual, Non-Exclusive Easement to Betty Dorris
Trust dated August 24, 2000, for Access and Utility
Purposes, Makawao, Maui, TMK (2) 2-9-3:portion 8.

APPLICANT:

Betty Dorris, as Trustee of Betty Dorris Trust dated August 24,
2000, Tenant in Severalty whose mailing address is P.O. Box 792112,
Paia, Hawaii 96779.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Honopuo-Hoolawa, Hamakualoa, situated
at Makawao, Maui, identified by Tax Map Key: (2) 2-9-3:portion 8, as
shown on the attached map labeled Exhibit A.

AREA:

7,509 square feet, more or less.

ZONING:

State Land Use District: Agricultural
County of Maui CZO: Agricultural

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7268, Stephen Dorris,

Permittee, for general agriculture purposes; and

Land Office Deed No. 28545, Evelyn Iwankiw, Brian Iwankiw, and Sally Iwankiw, Grantees, for access and utility easement.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis. (See State Abstractor's report at Exhibit B confirming the kuleanas status of (2) 2-9-3:23.)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

None

REMARKS:

In 2002 staff was processing several requests for easements through the State property. Property owners applying for easements were landlocked. Staff wrote to Ms. Betty Dorris son, Stephen inquiring if his mother needed an easement through the State property for Parcel 23. By letter dated May 5, 2005, Ms. Dorris wrote to the Department requesting the easement. Adjacent property owner, EMI will not allow her family to use the road located on their property, Parcel 6 and 24.

Access is unofficially through the State property, Parcel 8. Parcel

8 is encumbered Revocable Permit No. S-7268 issued to Stephen Dorris for agriculture purposes. Mr. Dorris has two large greenhouses for their hydroponics tomato farm.

The granting of this easement is for personal use through the State property. Specifically the easement is for access to and from the Applicants personal residence (Parcel 23). This easement should not to be used in conjunction with a commercial operation located on Parcel 23. The easement currently under consideration did not require the property owner of Parcel 23 to do an environmental assessment or environmental impact statement. Many agricultural property owners are transforming farmlands into 'ecotourism' or 'agro-tourism' or business for weddings, birthday luaus, classes, tours, etc. Such activities could or may not impact the easement area (more buses and cars), the surrounding State property (Parcel 8), and adjacent private properties (traffic congestion, noise, sanitation). Therefore, if the property owner or its successor owners contemplates commercial use, then compliance with Chapter 343, Hawaii Revised Statutes must be done and the easement consideration paid to the State must be re-evaluated. An environmental assessment or environmental impact statement will consider the commercial use of Parcel 23 and the easement, its impact to the environment and the community.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Comments were solicited and their statements are listed below:

DHHL	Exhibit C
Historic Preservation	No response
County of Maui, Planning	No comments
County of Maui, Public Works	No comments
OHA	No comments

Parcel 8 topography (gullies and ravine) makes it very difficult to create an access easement (straight line) following the boundaries of adjacent private properties (Parcel 10, 6, 24).

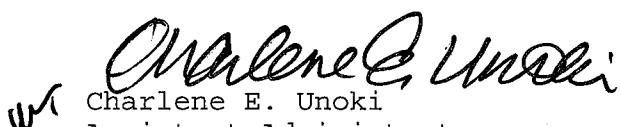
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 2-9-3:23, provided the succeeding owner has not had a lease, permit, easement or other disposition of

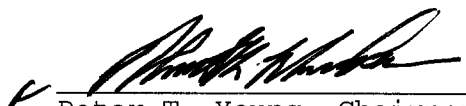
State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Betty Dorris Trust dated August 24, 2000 covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 2-9-003:023, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

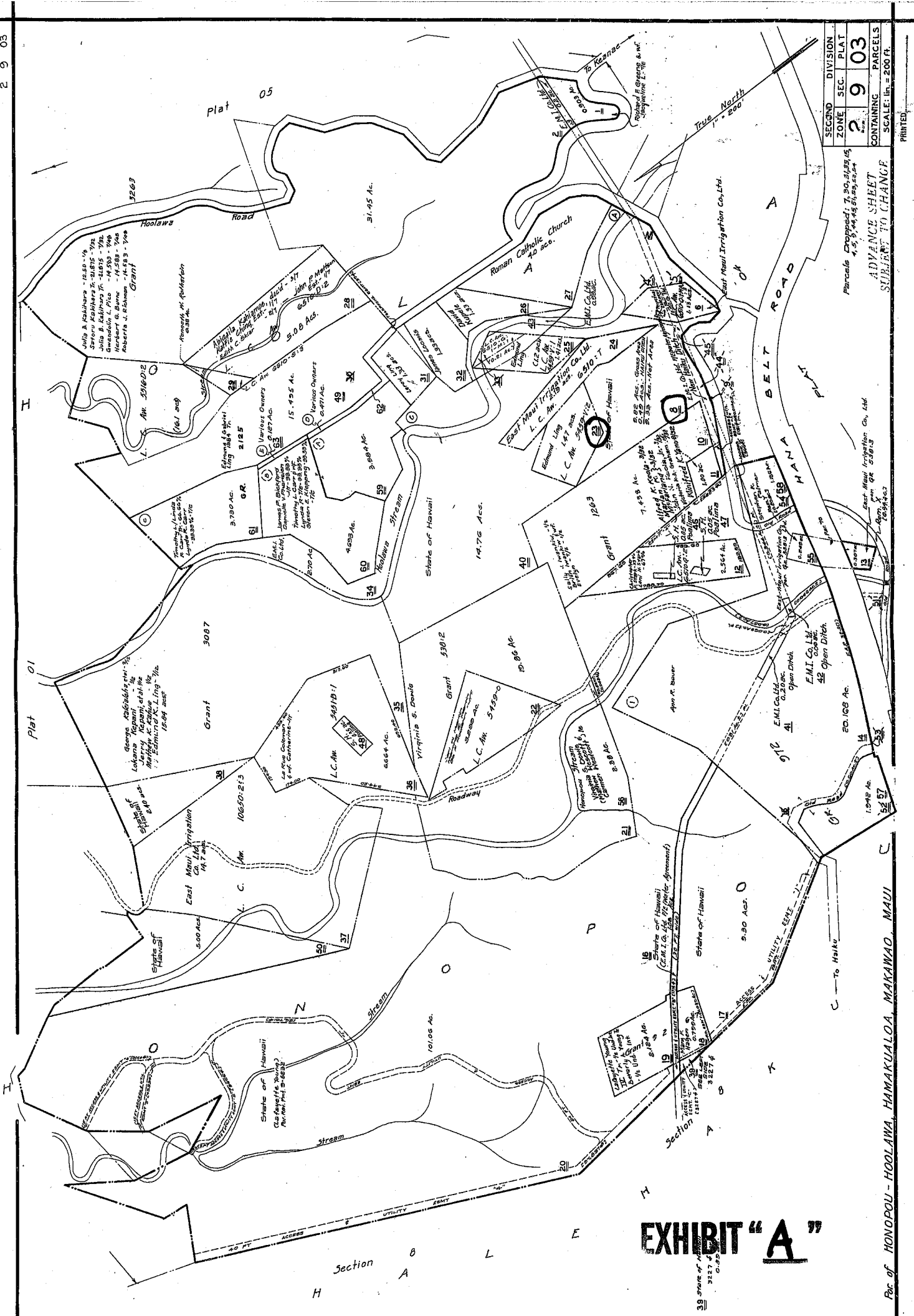
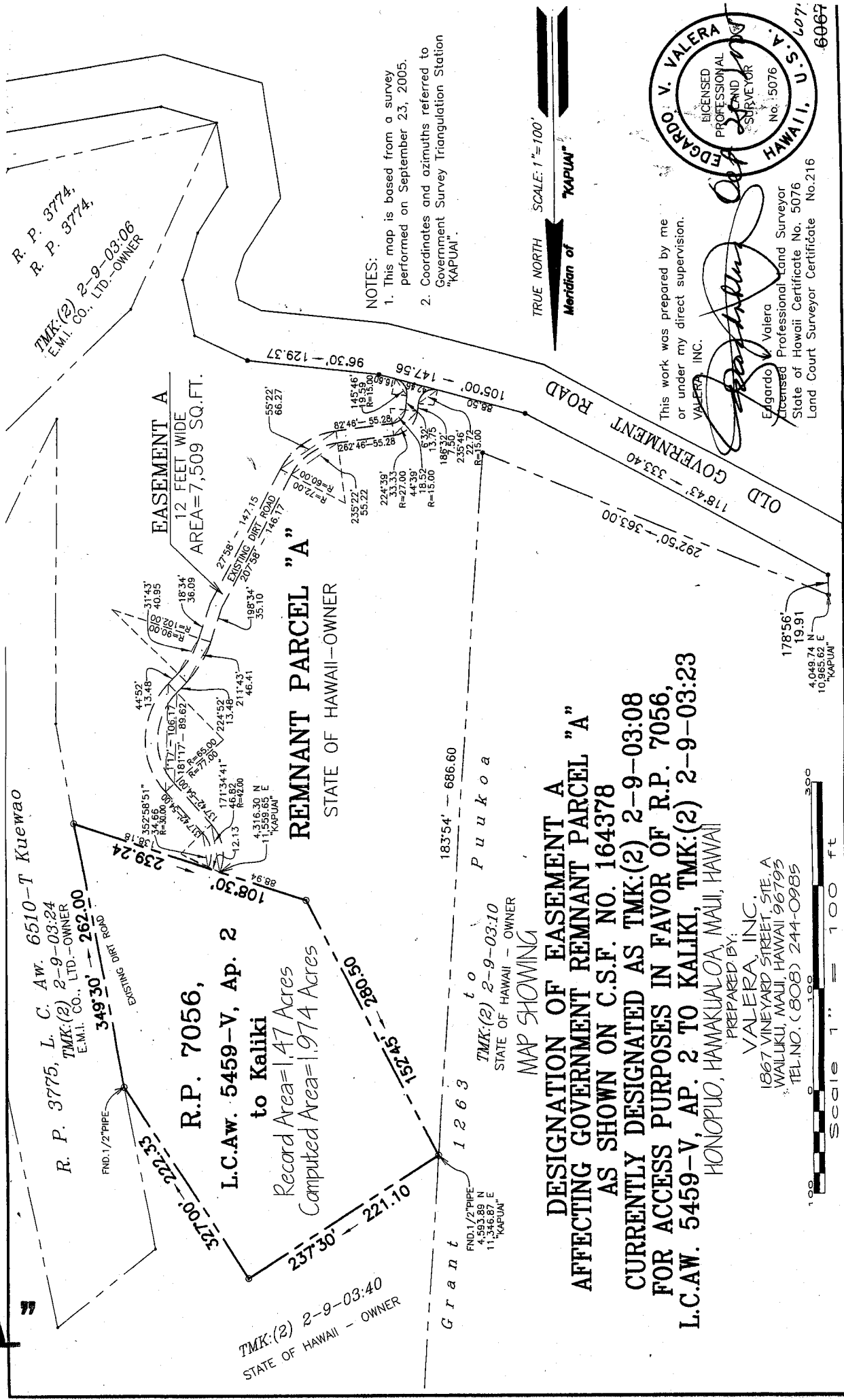


EXHIBIT "A"

EXHIBIT "A"



LINDA LINGLE
GOVERNOR



RECEIVED
DIVISION OF
LAND AND MANAGEMENT
2003 JAN -9 PM 2:03

ERIC T. HIRANO
ACTING CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEAN A. NAKANO
ACTING DEPUTY DIRECTOR FOR
THE COMMISSION ON WATER
RESOURCE MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. Box 621
HONOLULU, HAWAII 96809

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE
COMMISSION
LAND
STATE PARKS

January 2, 2003

9992(M)

MEMORANDUM

TO: Charlene E. Unoki, Assistant Administrator

THROUGH: Dierdre S. Mamiya, Administrator *[Signature]*

FROM: E. Mahoe Collins, Abstractor *[Signature]*

Subject: Kuleana Status of designated Tax Key Parcel (2) 2-9-03: 23 situate at Honopou, Hamakualoa, Maui.

We have been asked to determine the kuleana status of the original source of title to tax map key parcel (2) 2-9-03: 23, identified as being all of Mahele II of Land Commission Award 5459-V to Kaliki.

Records filed in our office reveal that the name of the awardee, Kaliki, does not appear on the list of konohiki who participated in the Land Division with Kamehameha III at the 1848 Mahele.

As recorded by the Land Commissioners in Volume 5 of the Registry of Native Testimonies at page 488, the parcels of land claimed by Kaliki were "given to the claimant by the konohiki, Ku, in the days of Kamehameha I" and that the claimant's possession to these lands "has never been disputed".

We find that the subject property, situate in the Ili of Kuamoohua in the Ahupuaa of Honopou on the island of Maui, as adjudicated by the Land Commissioners under Land Commission Award 5459-V dated October 27, 1852 to Kaliki, is an award of kuleana status.

EXHIBIT "B"

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



MICAH A. KANE
CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEN HENDERSON
DEPUTY TO THE CHAIRMAN

KAULANA H. PARK
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879

HONOLULU, HAWAII 96805

June 7, 2005

To: Charlene Unoki, District Land Agent
Department of Land and Natural Resources

From: Darrell Yagodich, Planning Program Manager *Darrell Yagodich*

Subject: PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND
UTILITY PURPOSES
MAKAWAO, MAUI
BETTY SUE DORRIS TRUST, OWNER OF PARCEL 23

Please be aware of the following comments in your review of this request:

1. Establish that use of State land is necessary, the applicant's parcel is land locked, and no other feasible alternative exists;
2. Demonstrate that the placement of the easements over Parcel 8 have minimum negative impact on State land and will not create remnant State parcels; and
3. As appropriate, show whether the easements have a wider public benefit beyond serving the applicant only.

Thank you for the opportunity to comment.

EXHIBIT "C"